



IN THE COURT OF DISTRICT JUDGE, ORAKZAI AT BABER MELA


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Case Title: Muhammad Yasir vs Provincial Government

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
Superintendent Note	02.10.2021	<p>Civil Misc. appeal presented through counsel, Dr. Ameer Ajam Advocate. The memo of appeal is accompanied by attested copy of the impugned order and other relevant record. Submitted, please.</p> <p align="center"> (SUPERINTENDENT) To District Judge, Orakzai at Baber Mela.</p>
Order No.01	02.10.2021	<p>Register. Counsel for the appellant present. Preliminary arguments heard. The appellant through a suit for declaration with a relief for possession before the learned Civil Judge-I, Orakzai claimed that appellants being plaintiffs and respondents no. 2 to 7 being defendants are joint owners of the suit property while the respondent/defendant no. 1, the District Education Officer Orakzai on the pretext of upgradation of Government Primary School Mandra Khel, Lagho to middle standard, is bent upon making encroachment over the adjacent property of the appellants/plaintiffs and respondents/defendants no. 2 to 7. The suit was contested by the respondents/defendants. During the course of proceedings, the appellants submitted application for withdrawal of the suit with permission to file a fresh suit on the ground of impleadment of other necessary parties and inclusion of some other property in the subject matter. The application was dismissed by the learned court vide order dated 16.09.2021. The appellants/plaintiffs being aggrieved of the order, filed the instant appeal.</p> <p>During the course of preliminary arguments when the learned counsel for appellants/plaintiffs was confronted with the law on the point that impleadment of necessary parties and inclusion of other property in the subject matter of the suit do not</p>


Shaukat Ahmad Khan
District & Sessions Judge,
Orakzai at Baber Mela
02/10/21

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		<p>constitute formal defects and these can be cured by submission of application for amendment of the plaint, he conceded the point; however, submitted that a similar suit bearing no. 156/1 of 20.03.2021 titled as "Malak Bahadar etc. VS Ziarat Gul etc." is pending between the same parties regarding the same subject matter before the court of learned Civil Judge-I, Orakzai; therefore, the appellants/plaintiffs do not want to proceed further with the present suit before the court and want to continue the subsequent suit no. 156/1. In this respect, he also submitted a separate application for withdrawal of the suit before the trial court without seeking permission to file a fresh suit.</p> <p>Hence, keeping in view the aforementioned situation coupled with the application of counsel for the appellants/plaintiffs, there is no need to issue a notice to the respondents/defendants; therefore, on acceptance of the instant appeal to the extent of withdrawal of the suit, the impugned order dated 16.09.2021 of the learned trial court is set aside. The suit of the appellants/plaintiffs is dismissed as withdrawn with no order as to cost. File of this court be consigned to record room. Copy of this order be sent to learned Civil Judge-I, Orakzai for compliance.</p> <p>Announced: 02.10.2021</p> <p style="text-align: right;"> (SHAUKAT AHMAD KHAN) District Judge, Orakzai at Baber Mela</p>